

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UDE ONUOHA,

Plaintiff,

-against-

THE CITY OF NEW YORK, ET AL.

Defendants.

23-CV-07489 (LJL)

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge:

On January 11, 2024, Judge Lewis J. Liman referred this matter to a magistrate judge for settlement purposes. (See ECF 10.) That referral was reassigned to the undersigned. A settlement conference was scheduled to be held on March 14, 2024. (See ECF 12.) Defendants' counsel, Michael Finkelstein, appeared as required; Plaintiff and his counsel, Gary N. Rawlins, did not.

Mr. Rawlins' after-the-fact explanation for his failure to attend the conference was that he had contracted COVID. But his illness does not explain why he neglected to let Mr. Finkelstein and the Court know that he would not be attending the settlement conference. His behavior was discourteous. It wasted Mr. Finkelstein's time and the Court's time. And it violated this Court's order directing him to appear at the settlement conference.

Rule 16(f) of the Federal Rules of Civil Procedure authorizes a judge, "[o]n motion or on its own," to issue "any just orders" if a party or its attorney "fails to appear at a scheduling or other pretrial conference" or "fails to obey a scheduling or other pretrial order." Fed. R. Civ. P. 16(f)(1)(A), (C). These provisions apply to pretrial settlement conferences. *See, e.g., Bulkmatic Transp. Co. v. Pappas*, No. 99-CV-12070 (RMB) (JCF), 2002 WL 975625, at *2-4 (S.D.N.Y. May 9,

2002) (sanctioning the defendant's counsel for failing to attend mediation); *see also Mordechai v. St. Luke's-Roosevelt Hosp. Ctr.*, No. 99-CV-3000 (RWS) (THK), 2001 WL 699062, at *1 (S.D.N.Y. June 20, 2001) (sanctioning the plaintiff for failing to appear at a settlement conference); *Dan River, Inc. v. Crown Crafts, Inc.*, No. 98-CV-3178 (LMM) (AJP), 1999 WL 287327, at *1 (S.D.N.Y. May 7, 1999) (sanctioning the defendant for failing to appear at a settlement conference). "The Court cannot force a party to settle, but the Court has the power under Rule 16 to require a party to appear for at least one settlement conference." *Dan River, Inc.*, 1999 WL 287327, at *2.

No showing of bad faith is required to impose sanctions under Rule 16(f)(1). *See Hamilton Int'l Ltd. v. Vortic LLC*, No. 17-CV-5575 (AJN) (OTW), 2018 WL 5292128, at *2 (S.D.N.Y. Oct. 25, 2018). "The fact that a pretrial order was violated is sufficient to allow some sanction." *Mahoney v. Yamaha Motor Corp. U.S.A.*, 290 F.R.D. 363, 366-67 (E.D.N.Y. 2013) (quoting 6A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1531 (3d ed. 2010)). "Because sanctions pursuant to Rule 16(f) fall within the scope of pretrial matters, magistrate judges are well within their authority to impose such sanctions." *Grenion v. Farmers Ins. Exch.*, No. 12-CV-3219 (JS) (GRB), 2014 WL 1284635, at *4 (E.D.N.Y. Mar. 14, 2014).

Accordingly, it is hereby ORDERED that Mr. Rawlins is sanctioned under Rule 16(f)(1) for his failure to attend the settlement conference. He shall pay \$1000 to the Clerk of Court by April 15, 2024. He is to file on the docket by April 16, 2024, an affidavit of payment to the Clerk of Court, including a copy of the Clerk's Office receipt.

The settlement conference is rescheduled for **Tuesday, April 9, 2024, at 12:00 p.m.** The conference will be held in Courtroom 9B, at 500 Pearl Street, New York, NY, 10007. If attending in person presents a hardship for any party, they may submit a letter on the docket explaining

the situation and the reasons why they believe the settlement conference should be held remotely.

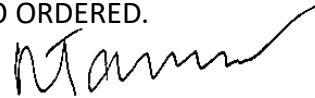
If this date is not convenient for the parties, counsel should e-mail my chambers at TarnofskyNYSDChambers@nysd.uscourts.gov on or before **March 22, 2024**, to propose three alternative dates and times for the settlement conference during the week of 4/8/2024.

Corporate parties must send the person with decision-making authority to settle the matter to the conference. The parties must update and resubmit their Ex Parte Settlement Conference Reports by **Tuesday, April 2, 2024, at 5:00 p.m.**

Prior to the settlement conference, Mr. Rawlins is ORDERED to provide Mr. Finkelstein with records from the first medical professional Plaintiff consulted after his fall.

DATED: March 15, 2024
New York, New York

SO ORDERED.



ROBYN F. TARNOFSKY
United States Magistrate Judge